

S/N 09/920,467

PATENTREMARKS

Claims 1, 7, 16, and 10 were amended, and claim 20 was cancelled without prejudice. Claims 1-19 are currently pending. In light of the following remarks, the applicant requests withdrawal of the pending rejections and advancement of this application to allowance.

Preliminary Matters

In paragraph 14 of the Office Action, the examiner suggested amending the claims to clarify whether the batch-downloading of the data items into the memory of the pump is patient-specific data. The applicants have amended independent claims 1, 7, 10, and 16 to clarify that at least some of the data downloaded into the pump is patient-specific. The applicant thanks the examiner for suggesting this amendment, which is intended to be clarifying only.

Double Patenting Rejection

The office action sets forth a provisional, non-statutory double patenting rejection over United States patent application serial no. 09/631,000. The applicant respectfully traverses this rejection and does not concede any characterizations of the pending claims or specification for either application set forth in the office action. The applicant notes that neither application has been allowed and respectfully requests the Patent Office to hold this rejection in abeyance until the application serial no. 09/631,000 is advanced to allowance.

Rejection under 35 U.S.C. § 101

Claim 20 stands rejected as being non-patentable subject matter. The applicant respectfully traverses this rejection and does not concede any characterization of the claim set forth in the office action. To expedite prosecution of this application, however, the applicant has cancelled claim 20 and respectfully requests withdrawal of the pending rejection.

S/N 09/920,467

PATENTRejection under 35 U.S.C. § 112

Claim 20 stands rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as his invention. The applicant respectfully traverses this rejection and does not concede any characterization of the claim set forth in the office action. To expedite prosecution of this application, however, the applicant has cancelled claim 20 and respectfully requests withdrawal of the pending rejection.

Rejection Under 35 U.S.C. § 103Claims 1-3 and 6

Claims 1-3 and 6 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) and in view of official notice. The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

Claim 1 (and dependent claims 2, 3, and 6) sets forth, "batch-down loading the plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items."

The office action admits, "Peterson does not explicitly disclose at least some of the data items establishing parameters for controlling operation of a medical pump entering a plurality of data items into a data base on the computer." The office action then states Eggers includes this teaching with the notation that Eggers discloses downloading drug libraries at col. 10, line 62-col. 11, line 7. The office action takes the position that downloading a drug library wherein each drug library can be customized for each user is equivalent to batch downloading for a specific patient.

However, Eggers teaches downloading drug libraries to a patient care system and storing the libraries (including drug names, proper concentrations, dosages, and limits) on a PCMCIA memory, which is a PC card having a form factor adaptable to a laptop computer. Drug names, proper concentrations, dosages, and dose limits are not patient-specific parameters or data. Eggers does not teach batch-down loading the plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items as set forth in the claims.

S/N 09/920,467

PATENT

The Official Notice does not relate to batch-downloading the plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items as set forth in the claims.

Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

Claims 7-20

Claims 7-20 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857), in view of Official Notice and in view of Klein (U.S. Patent 6,714,969). The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

Claim 7 (and claims 8 and 9) and claim 10 (and dependent claims 11-15) set forth memory positioned within the housing and loaded with a database, at least some of the program data items included in the database being patient-specific data items for controlling operation of a medical pump. Claim 16 (and claims 17-20) sets forth batch downloading the set of program data from the hand-held computer to the memory within the medical pump, at least some of the program data batch-downloaded to the memory being patient-specific program data.

Combinations that include these elements were distinguished from Peterson and Eggers above. Klein also fails to teach or suggest these claims elements. Klein is directed to a hand-held scanning device. Its disclosure teaches applications such as bar-code scanning for "point of sale processing or inventorying; portable, cellular video conferences by traveling business users; and digital photography/image capture for insurance assessors, sales professionals among many other applications that will be apparent to those skilled in the art. . . ." See, e.g., col. 10, ll. 53. It does not teach or suggest any applications for medical pumps as set forth in the claims. Klein also fails to teach or suggest memory positioned within the housing and loaded with a database, the database including a plurality of program data records and a plurality of data key records, each program data record containing a set of program data items, at least some of the

S/N 09/920,467

PATENT

program data items included in the database being patient-specific data items for controlling operation of a medical pump.

The Official Notice does not relate to program data items being patient-specific for controlling operation of a medical pump. Nor does the Official Notice relate to a database management system programmed to batch download data to the memory within the medical pump.

Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

Claims 4 and 5

Claims 4 and 5 stand rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) as applied to claim 3 and further in view of "Acute Health Solutions." The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

Claims 4 and 5 depend from claim 1 and also set forth batch-down loading a plurality of data items into memory within the pump, at least some of the data items batch-downloaded into memory being patient-specific data items as set forth in the claims.

As discussed above, Peterson and Eggers fail to teach or suggest a combination that includes this element. Acute Health Solutions also fails to teach or suggest these elements. Therefore, no combination of the cited references or official notice will result in the claimed combination of elements. The applicant respectfully requests reconsideration and withdrawal of the pending rejection.

Claim 18

Claim 18 stands rejected as being obvious over Peterson (U.S. Patent 5,788,669) in view of Eggers (U.S. Patent 5,713,857) in view of Official Notice and in view of Klein (U.S. Patent 6,714,969) as applied to claim 17 and in further view of "Acute Health Solutions." The applicant respectfully traverses this rejection and does not concede the characterizations of the cited references or the pending application set forth in the office action.

S/N 09/920,467

PATENT

Claim 18 depends from Claim 16 (and claims 17-20) and also sets forth batch downloading the set of program data from the hand-held computer to the memory within the medical pump, at least some of the program data batch-downloaded to the memory being patient-specific program data. As discussed herein, none of the cited references teach or suggest a combination that includes this element and thus no combination can result in the claimed combination of elements. Therefore, the applicant respectfully requests reconsideration and withdrawal of the pending rejection.

### CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests withdrawal of the pending rejection and advancement of this application to issuance. The applicant also notes that there may be additional reasons that the claimed invention is patentably distinct from the cited references in addition to those raised in the above remarks. The applicant reserves the right to raise any such reason in the future.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned attorney at (612) 336-4608.

Respectfully submitted,

MERCHANT & GOULD, P.C.  
3200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
(612) 332-5300

Dated: January 28, 2008**23552**

PATENT TRADEMARK OFFICE

By: 

John C. Reich  
Reg. No. 37,703  
JCR/nma